

ASSEMBLY BILL

No. 1464

Introduced by Assembly Member Benoit

February 23, 2007

An act to amend Sections 4776, and 40002.1 of, and to repeal and add Section 40002 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1464, as introduced, Benoit. Vehicles: Preclusion of vehicle registration and issuance of arrest warrant.

Existing law makes it unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law. If the owner or other person is not driving the vehicle that is operated in a manner contrary to law, the owner or other person may be mailed a notice to appear. Failure to appear in response to that notice cannot result in a warrant of arrest. A verified complaint must be filed, and if the person does not appear in court, then an arrest warrant may be issued or renewal of the registration of the vehicle involved in the offense may be precluded. The owner or other person served the complaint has 10 days to answer the charges in the complaint.

This bill would permit the court, when an owner or other person given a notice to appear does not appear in court, or pay the applicable fine and penalties if an appearance is not required, to notify the owner or other person by mail that registration may be precluded by that failure and file a notice of noncompliance with the Department of Motor Vehicles in order to preclude registration of the vehicle involved in the offense, if the owner or other person does not respond as required within 21 days of the notification. The time to appear in court to answer the

charges in a verified complaint would be extended to 21 days. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4766 of the Vehicle Code is amended to
2 read:

3 4766. (a) Except as provided in subdivisions (b) and (c), the
4 department shall refuse to renew the registration of ~~any a~~ vehicle
5 for which a notice of noncompliance has been transmitted to the
6 department pursuant to subdivision (a) of Section 40002.1 if no
7 certificate of adjudication ~~therefor~~ has been received by the
8 department pursuant to ~~those provisions~~ *subdivision (b) of that*
9 *section*. The department shall include on each potential registration
10 card issued for use at the time of renewal, or on an accompanying
11 document, an itemization of citations for which notices of
12 noncompliance have been received by the department pursuant to
13 subdivision (a) of Section 40002.1. The itemization shall include
14 the citation number, citation date, and the jurisdiction that issued
15 the underlying notice pursuant to ~~subdivision (b) of~~ Section 40002
16 and the administrative service fee for clearing the offense pursuant
17 to subdivision (b) of this section.

18 (b) Upon application for renewal of vehicle registration for a
19 vehicle subject to subdivision (a), the department shall not refuse
20 registration renewal pursuant to subdivision (a) if the applicant,
21 with respect to each outstanding certificate of noncompliance, ~~(1)~~
22 *provides has performed both of the following:*

23 (1) *Provides* the department with a certificate of adjudication
24 for the offense issued pursuant to subdivision ~~(a)~~ (b) of Section
25 40002.1 ~~and (2) pays~~.

26 (2) *Pays* an administrative service charge, which shall be
27 established by the department to, in the aggregate, defray its costs
28 in administering this section.

29 (c) Whenever registration of a vehicle subject to subdivision
30 (a) is transferred or not renewed for two renewal periods, the
31 department shall so notify each court which transmitted a notice
32 of noncompliance affecting the vehicle and the department shall

1 not thereafter refuse registration renewal pursuant to subdivision
2 (a).

3 SEC. 2. Section 40002 of the Vehicle Code is repealed.

4 ~~40002. (a) Whenever a written notice to appear has been~~
5 ~~mailed to an owner of a vehicle or other person referred to in~~
6 ~~Section 40001, an exact and legible duplicate copy of the notice~~
7 ~~when filed with the magistrate, in lieu of a verified complaint, is~~
8 ~~a complaint to which the defendant may plead "guilty."~~

9 ~~If, however, the defendant fails to appear in court or does not~~
10 ~~deposit lawful bail, or pleads other than "guilty" of the offense~~
11 ~~charged, a complaint shall be filed which shall conform to Chapter~~
12 ~~2 (commencing with Section 948) of Title 5 of Part 2 of the Penal~~
13 ~~Code, and which shall be deemed to be an original complaint, and~~
14 ~~thereafter proceedings shall be had as provided by law, except that~~
15 ~~a defendant may, by an agreement in writing, subscribed by the~~
16 ~~defendant and filed with the court, waive the filing of a verified~~
17 ~~complaint and elect that the prosecution may proceed upon a~~
18 ~~written notice to appear.~~

19 ~~(b) A warrant of arrest shall not be issued against an owner of~~
20 ~~a vehicle or other person referred to in Section 40001 following~~
21 ~~the filing of a complaint for an offense under that section if the~~
22 ~~owner or person was not driving the vehicle involved unless the~~
23 ~~owner or other person is given notice of the offense charged and~~
24 ~~is informed that unless he or she appears in the court designated~~
25 ~~in the notice within 10 days after service of the notice and answers~~
26 ~~the charge, renewal of registration of the vehicle involved in the~~
27 ~~offense may be precluded or a warrant may be issued against him~~
28 ~~or her. The notice shall be given as prescribed by Section 22.~~

29 SEC. 3. Section 40002 is added to the Vehicle Code, to read:

30 40002. (a) (1) When there is a violation of Section 40001, an
31 owner or any other person subject to Section 40001, who was not
32 driving the vehicle involved in the violation, may be mailed a
33 written notice to appear. An exact and legible duplicate copy of
34 that notice when filed with the court, in lieu of a verified complaint,
35 is a complaint to which the defendant may plead "guilty".

36 (2) If, however, the defendant fails to appear in court or does
37 not deposit lawful bail, or pleads other than "guilty" of the offense
38 charged, a verified complaint shall be filed which shall be deemed
39 to be an original complaint, and thereafter proceedings shall be
40 had as provided by law, except that a defendant may, by an

1 agreement in writing, subscribed by the defendant and filed with
2 the court, waive the filing of a verified complaint and elect that
3 the prosecution may proceed upon a written notice to appear.

4 (3) A verified complaint pursuant to paragraph (2) shall include
5 a paragraph that informs the person that unless he or she appears
6 in the court designated in the complaint within 21 days after being
7 given the complaint and answers the charge, renewal of registration
8 of the vehicle involved in the offense may be precluded by the
9 department, or a warrant of arrest may be issued against him or
10 her.

11 (b) (1) If a person mailed a notice to appear pursuant to
12 paragraph (1) of subdivision (a) fails to appear in court or deposit
13 bail, a warrant of arrest shall not be issued based on the notice to
14 appear, even if that notice is verified. An arrest warrant may only
15 be issued after a verified complaint pursuant to paragraph (2) of
16 subdivision (a) is given the person and the person fails to appear
17 in court to answer that complaint.

18 (2) If a person mailed a notice to appear pursuant to paragraph
19 (1) of subdivision (a) fails to appear in court or deposit bail, the
20 court may give by mail to the person a notice of noncompliance.
21 A notice of noncompliance shall include a paragraph that informs
22 the person that unless he or she appears in the court designated in
23 the notice to appear within 21 days after being given by mail the
24 notice of noncompliance and answers the charge on the notice to
25 appear, or pays the applicable fine and penalties if an appearance
26 is not required, renewal of registration of the vehicle involved in
27 the offense may be precluded by the department.

28 (c) A verified complaint filed pursuant to this section shall
29 conform to Chapter 2 (commencing with Section 948) of Title 5
30 of Part 2 of the Penal Code.

31 (d) (1) The giving my mail of a notice to appear pursuant to
32 paragraph (1) of subdivision (a) or a notice of noncompliance
33 pursuant to paragraph(2) of subdivision (b) shall be done in a
34 manner prescribed by Section 22.

35 (2) The verified complaint pursuant to paragraph (2) of
36 subdivision (a) shall be given in a manner prescribed by Section
37 22.

38 SEC. 4. Section 40002.1 of the Vehicle Code is amended to
39 read:

1 40002.1. (a) Whenever ~~any~~ a person has failed to appear in
2 the court designated in the notice *to appear or a verified complaint*
3 specified in ~~subdivision (b)~~ of Section 40002, following personal
4 service of the notice *of noncompliance* or deposit in the mail
5 pursuant to Section 22, the magistrate or clerk of the court may
6 give notice of that fact to the department. ~~Whenever thereafter~~

7 (b) *Whenever* the matter is adjudicated, including a dismissal
8 of the charges upon forfeiture of bail or otherwise, the magistrate
9 or clerk of the court hearing the matter shall immediately ~~(1)~~
10 ~~endorse~~ *do all of the following*:

11 (1) *Endorse* a certificate to that effect, ~~(2)~~ *provide*.

12 (2) *Provide* the person or the person's attorney with a copy of
13 the certificate, ~~and (3)~~ *transmit*.

14 (3) *Transmit* a copy of the certificate to the department.

15 ~~(b) No~~

16 (c) A notice of noncompliance ~~may~~ *shall not* be transmitted to
17 the department pursuant to subdivision (a) if a warrant of arrest
18 has been issued on the same offense pursuant to subdivision (b)
19 of Section 40002. ~~No~~ A warrant of arrest ~~may~~ *shall not* be issued
20 pursuant to subdivision (b) of Section 40002 if a notice of
21 noncompliance has been transmitted to the department on the same
22 offense pursuant to this section, except that, when a notice has
23 been received by the court pursuant to subdivision (c) of Section
24 4766 or recalled by motion of the court, a warrant may then be
25 issued.